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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

**GREAT BOWERY INC. d/b/a TRUNK
ARCHIVE,**

Plaintiff,

vs.

**CASCADE DIGITAL MEDIA LLC; and
DOES 1 through 10 inclusive,**

Defendant.

Case No. 6:20-cv-00009-MK

**DEFENDANT’S ANSWER TO
PLAINTIFF’S COMPLAINT**

DEMAND FOR JURY TRIAL

Defendant Cascade Digital Media LLC (“Cascade”) answers Plaintiff’s Complaint as follows:

1.

No response is needed for paragraph 1 because the Complaint speaks for itself.
Defendant responds to the allegations in the Complaint as set forth herein.

2.

Paragraphs 2, 3, and 4 are conclusions of law that do not call for a response.

3.

Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 5 and therefore denies the same.

4.

Defendant admits paragraph 6.

5.

In response to paragraph 7, Defendant admits that its principal place of business is 33465 McKenzie View Dr., Eugene, Oregon 97408, and that Exhibit A of the Complaint appears to contain a printout of information from the Oregon Secretary of State's website regarding Cascade Digital Media LLC and a printout of the Terms of Use page on buzzfortoday.com. Defendant denies the remaining allegations of paragraph 7.

6.

Defendant denies paragraph 8.

7.

No response is needed for paragraph 9 because the Complaint speaks for itself. Defendant responds to the allegations in the Complaint as set forth herein.

8.

Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraphs 10 through 18 and therefore denies the same.

9.

In response to paragraphs 19 through 22, Defendant admits that the images of Caitlyn Jenner depicted in Exhibit C appeared on its website. Defendant affirmatively alleges that it removed those images from its website within one hour of Plaintiff's request to do so. Defendant denies the remaining allegations in paragraphs 19 through 22.

10.

In response to paragraph 23, Defendant admits and denies the allegations as set forth above.

11.

Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 24 and therefore denies the same.

12.

Defendant denies paragraphs 25 through 28.

13.

Except as specifically admitted, Defendant denies each and every allegation in the Complaint.

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

14.

Plaintiff has failed to allege facts necessary to state a claim for relief.

SECOND AFFIRMATIVE DEFENSE

(Fair Use)

15.

Any use by Defendant of the images that are the subject of Plaintiff's Complaint was for purposes of criticism, comment, and news reporting and was fair use under 17 U.S.C. § 107.

THIRD AFFIRMATIVE DEFENSE

(Abandonment)

16.

Plaintiff intentionally abandoned any right to control the images that are the subject of Plaintiff's Complaint.

FOURTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

17.

Plaintiff failed to bring this action within the applicable limitations period.

ATTORNEY'S FEES

18.

Defendant seeks an award for its costs and attorney fees under 17 U.S.C. § 505.

WHEREFORE, Defendant Cascade prays for judgment against Plaintiff, dismissing all claims asserted against it, declaring it the prevailing party, and awarding its reasonable costs and attorney's fees incurred herein.

DATED this 19th day of August, 2020.

HUTCHINSON COX

By: s/Jonathan M. Hood
Frank C. Gibson, OSB #792352
Jonathan M. Hood, OSB #133872
Of Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that on August 19, 2020, I served or caused to be served a true and complete copy of the foregoing **DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT** on the party or parties listed below as follows:

- ☒ Via CM / ECF Filing
- ☐ Via First Class Mail, Postage Prepaid
- ☐ Via Email
- ☐ Via Personal Delivery
- ☐ Via Facsimile

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